

1 NICOLA T. HANNA  
United States Attorney  
2 LAWRENCE S. MIDDLETON  
Assistant United States Attorney  
3 Chief, Criminal Division  
AMY E. POMERANTZ (Cal. Bar No. 275691)  
4 Assistant United States Attorney  
General Crimes Section  
5 1200 United States Courthouse  
312 North Spring Street  
6 Los Angeles, California 90012  
Telephone: (213) 894-0730  
7 Facsimile: (213) 894-0141  
E-mail: amy.pomerantz@usdoj.gov

8 Attorneys for Plaintiff  
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ALAN BRUCE PICHEL

16 Defendant.

No. ED CR 17-00100-RGK


PLEA AGREEMENT FOR DEFENDANT  
ALAN BRUCE PICHEL

17  
18 1. This constitutes the conditional plea agreement between  
19 ALAN BRUCE PICHEL ("defendant") and the United States Attorney's  
20 Office for the Central District of California (the "USAO") in the  
21 above-captioned case pursuant to Federal Rule of Criminal Procedure  
22 11(a)(2). This agreement is limited to the USAO and cannot bind any  
23 other federal, state, local, or foreign prosecuting, enforcement,  
24 administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and  
28 provided by the Court, appear and plead guilty to count one of the



1 indictment in United States v. Alan Bruce Pichel, 5:17-CR-100-RGK,  
2 which charges defendant with Felon in Possession of Firearms and  
3 Ammunition, in violation of 18 U.S.C. § 922(g)(1).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained  
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered  
8 for service of sentence, obey all conditions of any bond, and obey  
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be  
11 excluded for sentencing purposes under United States Sentencing  
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
13 within the scope of this agreement.

14 f. Be truthful at all times with Pretrial Services, the  
15 United States Probation Office, and the Court.

16 g. Pay the applicable special assessment at or before the  
17 time of sentencing unless defendant lacks the ability to pay and  
18 prior to sentencing submits a completed financial statement on a form  
19 to be provided by the USAO.

20 3. Defendant and the USAO agree that defendant's entry of a  
21 guilty plea pursuant to paragraph 2(a) above will be conditional, in  
22 that defendant reserves the right, on appeal from the judgment, to  
23 seek review of the adverse determination of defendant's Motion to  
24 Dismiss Indictment, CR No. 49. If defendant prevails on appeal,  
25 defendant will be allowed to withdraw defendant's guilty plea.

26 THE USAO'S OBLIGATIONS

27 4. The USAO agrees to:

28 a. Not contest facts agreed to in this agreement.

1           b. Abide by all agreements regarding sentencing contained  
2 in this agreement.

3           c. At the time of sentencing, move to dismiss the  
4 remaining count of the indictment as against defendant. Defendant  
5 agrees, however, that at the time of sentencing the Court may  
6 consider any dismissed charges in determining the applicable  
7 Sentencing Guidelines range, the propriety and extent of any  
8 departure from that range, and the sentence to be imposed.

9           d. At the time of sentencing, provided that defendant  
10 demonstrates an acceptance of responsibility for the offenses up to  
11 and including the time of sentencing, recommend a two-level reduction  
12 in the applicable Sentencing Guidelines offense level, pursuant to  
13 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
14 additional one-level reduction if available under that section.

15           e. Not seek a sentence of imprisonment above the high end  
16 of, and make no recommendation as to the point within the applicable  
17 Sentencing Guidelines range at which a term of imprisonment should be  
18 selected.

19                                   NATURE OF THE OFFENSE

20           5. Defendant understands that for defendant to be guilty of  
21 the crime charged in Count One, that is, felon in possession of  
22 firearm or ammunition, in violation of Title 18, United States Code,  
23 Section 922(g)(1), the following must be true:

24           a. Defendant knowingly possessed a firearm or ammunition;  
25           b. The firearm or ammunition had been transported from  
26 one state to another or between a foreign nation and the United  
27 States; and  
28

1 c. At the time the defendant possessed the firearm or  
2 ammunition, the defendant had been convicted of a crime punishable by  
3 imprisonment for a term exceeding one year.

4 PENALTIES

5 6. Defendant understands that the statutory maximum sentence  
6 that the Court can impose for a violation of Title 18, United States  
7 Code, Section 922(g)(1), is: 10 years of imprisonment; a 3-year  
8 period of supervised release; a fine of \$250,000 or twice the gross  
9 gain or gross loss resulting from the offense, whichever is greatest;  
10 and a mandatory special assessment of \$100.

11 7. Defendant understands that supervised release is a period  
12 of time following imprisonment during which defendant will be subject  
13 to various restrictions and requirements. Defendant understands that  
14 if defendant violates one or more of the conditions of any supervised  
15 release imposed, defendant may be returned to prison for all or part  
16 of the term of supervised release authorized by statute for the  
17 offense that resulted in the term of supervised release, which could  
18 result in defendant serving a total term of imprisonment greater than  
19 the statutory maximum stated above.

20 8. Defendant understands that, by pleading guilty, defendant  
21 may be giving up valuable government benefits and valuable civic  
22 rights, such as the right to vote, the right to possess a firearm,  
23 the right to hold office, and the right to serve on a jury.  
24 Defendant understands that once the court accepts defendant's guilty  
25 plea, it will be a federal felony for defendant to possess a firearm  
26 or ammunition. Defendant understands that the conviction in this  
27 case may also subject defendant to various other collateral  
28 consequences, including but not limited to revocation of probation,

1 parole, or supervised release in another case and suspension or  
2 revocation of a professional license. Defendant understands that  
3 unanticipated collateral consequences will not serve as grounds to  
4 withdraw defendant's guilty plea.

5 9. Defendant understands that, if defendant is not a United  
6 States citizen, the felony conviction in this case may subject  
7 defendant to: removal, also known as deportation, which may, under  
8 some circumstances, be mandatory; denial of citizenship; and denial  
9 of admission to the United States in the future. The court cannot,  
10 and defendant's attorney also may not be able to, advise defendant  
11 fully regarding the immigration consequences of the felony conviction  
12 in this case. Defendant understands that unexpected immigration  
13 consequences will not serve as grounds to withdraw defendant's guilty  
14 plea.

15 FACTUAL BASIS

16 10. Defendant admits that defendant is, in fact, guilty of the  
17 offenses to which defendant is agreeing to plead guilty. Defendant  
18 and the USAO agree to the statement of facts provided below and agree  
19 that this statement of facts is sufficient to support a plea of  
20 guilty to the charge described in this agreement but is not meant to  
21 be a complete recitation of all facts relevant to the underlying  
22 criminal conduct or all facts known to either party that relate to  
23 that conduct.

24 On or about February 19, 2017, in San Bernardino County, within  
25 the Central District of California, defendant knowingly possessed  
26 ammunition, namely, approximately 1000 rounds of 9 mm caliber  
27 ammunition manufactured by Tula Cartridge Works and Speer, in and  
28 affecting interstate and foreign commerce.

1       Such possession occurred after defendant had been convicted of a  
2 felony crime punishable by a term of imprisonment exceeding one year,  
3 namely, Felony Vandalism, in violation of California Penal Code  
4 Section 594(b)(1), in the Superior Court of the State of California,  
5 County of San Bernardino, case number FVI021885, on or about August  
6 12, 2005.

7       In addition, on or about February 19, 2017, in San Bernardino  
8 County, within the Central District of California, defendant  
9 knowingly possessed at a residence located in Victorville,  
10 California, the following firearms, each of which was manufactured  
11 outside the State of California and had, prior to February 19, 2017,  
12 traveled in and affected interstate commerce:

13           a.   A Ruger, model 10/22, .22 caliber rifle, bearing  
14 serial number 11841256;

15           b.   A Harrington & Richardson, model 490, 20-gauge  
16 shotgun, bearing serial number AM338161;

17           c.   A Ruger, Mini 14, .223 caliber rifle, bearing serial  
18 number 18061810;

19           d.   A Remington, model 870, 12-gauge shotgun, bearing  
20 serial number 1187975V;

21           e.   A Remington, model 770, .30-06 caliber rifle, bearing  
22 serial number 71431311;

23           f.   A Ruger, model 10/22, .22 caliber rifle, bearing  
24 serial number 25884950;

25           g.   A Springfield, model 83, .22 caliber rifle, bearing no  
26 visible serial number;

27           h.   A Sig Sauer, model 522, .22 caliber rifle, bearing  
28 serial number 32A014833;

1 i. A Ruger, model SP101, .357 magnum caliber revolver,  
2 bearing serial number 57327790;

3 j. A Smith and Wesson, .38 Special caliber revolver,  
4 bearing serial number BRH1162;

5 Such possession occurred after defendant had been convicted of a  
6 felony crime punishable by a term of imprisonment exceeding one year,  
7 namely, Felony Vandalism, in violation of California Penal Code  
8 Section 594(b)(1), in the Superior Court of the State of California,  
9 County of San Bernardino, case number FVI021885, on or about August  
10 12, 2005.

11 SENTENCING FACTORS

12 11. Defendant understands that in determining defendant's  
13 sentence the Court is required to calculate the applicable Sentencing  
14 Guidelines range and to consider that range, possible departures  
15 under the Sentencing Guidelines, and the other sentencing factors set  
16 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
17 Sentencing Guidelines are advisory only, that defendant cannot have  
18 any expectation of receiving a sentence within the calculated  
19 Sentencing Guidelines range, and that after considering the  
20 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
21 be free to exercise its discretion to impose any sentence it finds  
22 appropriate up to the maximum set by statute for the crimes of  
23 conviction.

24 12. Defendant and the USAO have no agreement as to the  
25 appropriate sentence or the applicable Sentencing Guidelines factors.  
26 Both parties reserve the right to seek any sentence within the  
27 statutory maximum, and to argue for any criminal history score and  
28

1 category, base offense level, specific offense characteristics,  
2 adjustments, departures, and variances.

3 WAIVER OF CONSTITUTIONAL RIGHTS

4 13. Defendant understands that by pleading guilty, defendant  
5 gives up the following rights:

6 a. The right to persist in a plea of not guilty.

7 b. The right to a speedy and public trial by jury.

8 c. The right to be represented by counsel - and if  
9 necessary have the court appoint counsel -- at trial. Defendant  
10 understands, however, that, defendant retains the right to be  
11 represented by counsel - and if necessary have the court appoint  
12 counsel - at every other stage of the proceeding.

13 d. The right to be presumed innocent and to have the  
14 burden of proof placed on the government to prove defendant guilty  
15 beyond a reasonable doubt.

16 e. The right to confront and cross-examine witnesses  
17 against defendant.

18 f. The right to testify and to present evidence in  
19 opposition to the charges, including the right to compel the  
20 attendance of witnesses to testify.

21 g. The right not to be compelled to testify, and, if  
22 defendant chose not to testify or present evidence, to have that  
23 choice not be used against defendant.

24 h. Any and all rights to pursue any affirmative defenses,  
25 Fourth Amendment or Fifth Amendment claims, and other pretrial  
26 motions that have been filed or could be filed.



1                                    WAIVER OF APPEAL OF CONVICTION

2            14. Defendant understands that, with the exception of an appeal  
3 based on a claim that defendant's guilty pleas were involuntary, or  
4 an appeal on the grounds specifically reserved in paragraph 3 above,  
5 by pleading guilty defendant is waiving and giving up any right to  
6 appeal defendant's conviction on the offense to which defendant is  
7 pleading guilty.

8                                    RESULT OF WITHDRAWAL OF GUILTY PLEA

9            15. Defendant agrees that if, after entering a guilty plea  
10 pursuant to this agreement, defendant seeks to withdraw and succeeds  
11 in withdrawing defendant's guilty pleas on any basis other than a  
12 claim and finding that entry into this plea agreement was  
13 involuntary, then (a) the USAO will be relieved of all of its  
14 obligations under this agreement; and (b) should the USAO choose to  
15 pursue any charge that was either dismissed or not filed as a result  
16 of this agreement, then (i) any applicable statute of limitations  
17 will be tolled between the date of defendant's signing of this  
18 agreement and the filing commencing any such action; and  
19 (ii) defendant waives and gives up all defenses based on the statute  
20 of limitations, any claim of pre-indictment delay, or any speedy  
21 trial claim with respect to any such action, except to the extent  
22 that such defenses existed as of the date of defendant's signing this  
23 agreement.

24                                    EFFECTIVE DATE OF AGREEMENT

25            16. This agreement is effective upon signature and execution of  
26 all required certifications by defendant, defendant's counsel, and an  
27 Assistant United States Attorney.

BREACH OF AGREEMENT

17. Defendant agrees that if defendant, at any time after the signature of this agreement and execution of all required certifications by defendant, defendant's counsel, and an Assistant United States Attorney, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then: (a) if defendant has previously entered a guilty plea pursuant to this agreement, defendant will not be able to withdraw the guilty plea, and (b) the USAO will be relieved of all its obligations under this agreement.

18. Following the Court's finding of a knowing breach of this agreement by defendant, should the USAO choose to pursue any charge that was either dismissed or not filed as a result of this agreement, then:

a. Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the filing commencing any such action.

b. Defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement.

1           c. Defendant agrees that: (i) any statements made by  
2 defendant, under oath, at the guilty plea hearing (if such a hearing  
3 occurred prior to the breach); (ii) the agreed to factual basis  
4 statement in this agreement; and (iii) any evidence derived from such  
5 statements, shall be admissible against defendant in any such action  
6 against defendant, and defendant waives and gives up any claim under  
7 the United States Constitution, any statute, Rule 410 of the Federal  
8 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
9 Procedure, or any other federal rule, that the statements or any  
10 evidence derived from the statements should be suppressed or are  
11 inadmissible.

12                           COURT AND PROBATION OFFICE NOT PARTIES

13           19. Defendant understands that the Court and the United States  
14 Probation Office are not parties to this agreement and need not  
15 accept any of the USAO's sentencing recommendations or the parties'  
16 agreements to facts or sentencing factors.

17           20. Defendant understands that both defendant and the USAO are  
18 free to: (a) supplement the facts by supplying relevant information  
19 to the United States Probation Office and the Court, (b) correct any  
20 and all factual misstatements relating to the Court's Sentencing  
21 Guidelines calculations and determination of sentence, and (c) argue  
22 on appeal and collateral review that the Court's Sentencing  
23 Guidelines calculations and the sentence it chooses to impose are not  
24 error. While this paragraph permits both the USAO and defendant to  
25 submit full and complete factual information to the United States  
26 Probation Office and the Court, even if that factual information may  
27 be viewed as inconsistent with the facts agreed to in this agreement,  
28

1 this paragraph does not affect defendant's and the USAO's obligations  
2 not to contest the facts agreed to in this agreement.

3 21. Defendant understands that even if the Court ignores any  
4 sentencing recommendation, finds facts or reaches conclusions  
5 different from those agreed to, and/or imposes any sentence up to the  
6 maximum established by statute, defendant cannot, for that reason,  
7 withdraw defendant's guilty plea and defendant will remain bound to  
8 fulfill all defendant's obligations under this agreement. Defendant  
9 understands that no one -- not the prosecutor, defendant's attorney,  
10 or the Court -- can make a binding prediction or promise regarding  
11 the sentence defendant will receive, except that it will be within  
12 the statutory maximum.

13 NO ADDITIONAL AGREEMENTS

14 22. Defendant understands that, except as set forth herein,  
15 there are no promises, understandings, or agreements between the USAO  
16 and defendant or defendant's attorney, and that no additional  
17 promise, understanding, or agreement may be entered into unless in a  
18 writing signed by all parties or on the record in court.

19 ///

20 ///

21 ///

22 ///

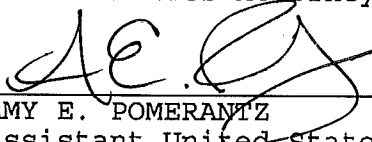
PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

23. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

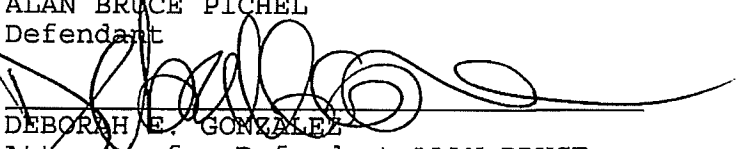
NICOLA T. HANNA  
United States Attorney

  
AMY E. POMERANTZ  
Assistant United States Attorney

1/29/18  
Date

ALAN BRUCE PICHEL  
Defendant

Date

  
DEBORAH E. GONZALEZ  
Attorney for Defendant ALAN BRUCE  
PICHEL

1/29/18  
Date



1 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

2 23. The parties agree that this agreement will be considered  
3 part of the record of defendant's guilty plea hearing as if the  
4 entire agreement had been read into the record of the proceeding.

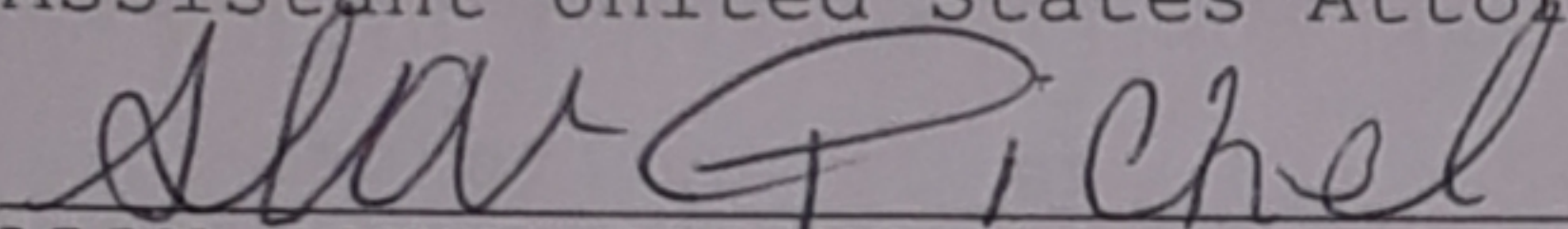
5 AGREED AND ACCEPTED

6 UNITED STATES ATTORNEY'S OFFICE  
7 FOR THE CENTRAL DISTRICT OF  
8 CALIFORNIA

8 NICOLA T. HANNA  
9 United States Attorney

10 \_\_\_\_\_  
11 AMY E. POMERANTZ  
12 Assistant United States Attorney

\_\_\_\_\_  
Date

12   
13 ALAN BRUCE PICHEL  
14 Defendant

\_\_\_\_\_  
Date

14 \_\_\_\_\_  
15 DEBORAH E. GONZALEZ  
16 Attorney for Defendant ALAN BRUCE  
17 PICHEL

\_\_\_\_\_  
Date



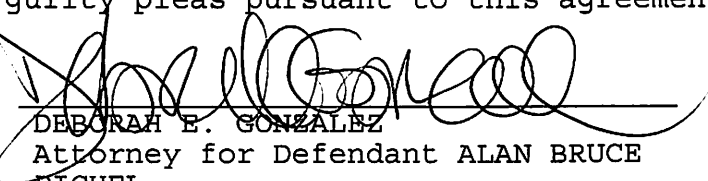
ALAN BRUCE PICHEL  
Defendant

1/29/18  
Date



CERTIFICATION OF DEFENDANT'S ATTORNEY

I am ALAN BRUCE PICHEL's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of guilty pleas pursuant to this agreement.

  
DEBORAH E. GONZALEZ  
Attorney for Defendant ALAN BRUCE  
PICHEL

1/29/18  
Date